

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

SCOTT BROTHERTON,

Petitioner,

v.

Civ. No. 16-802 MCA/GJF

JAMES MULHERON, Warden,
and HECTOR H. BALDERAS,
Attorney General of New Mexico,

Respondents.

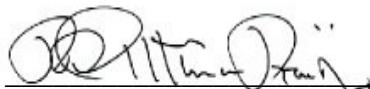
ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER comes before the Court on the Magistrate Judge's "Proposed Findings and Recommended Disposition" ("PFRD"), filed on October 4, 2016. Doc. No. 9. In the PFRD, the Magistrate Judge found that Petitioner Scott Brotherton's *pro se* "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254" ("Petition") [Doc. No. 1] failed to establish that Mr. Brotherton had exhausted his available state remedies. As a result, the Magistrate Judge recommended that Mr. Brotherton's single claim that his period of probation expired months before his probation revocation hearing be dismissed without prejudice.

The parties were notified that written objections to the PFRD were due within fourteen days. Doc. No. 9 at 6. Respondents filed no objections. Petitioner filed no objections, but following the entry of the PFRD, filed instead a "Motion to Dismiss Without Prejudice" moving this Court to dismiss his case so that it could be heard before the appropriate state tribunal. Doc. No. 11 at 1. Thus, rather than objecting, Mr. Brotherton clearly assents to the recommendations in the PFRD. Accordingly, the recommendations of the Magistrate Judge are adopted by this Court.

IT IS THEREFORE ORDERED that Petitioner Scott Brotherton's "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254" [Doc. No. 1] be **DISMISSED WITHOUT PREJUDICE.**

IT IS SO ORDERED.



THE HONORABLE M. CHRISTINA ARMIJO
CHIEF UNITED STATES DISTRICT JUDGE